



STATE OF TENNESSEE  
**DEPARTMENT OF LABOR**  
Division of Occupational Safety and Health  
Gateway Plaza  
710 James Robertson Parkway, 3rd Floor  
Nashville, Tennessee 37243-0659, (615) 741-3161

**TOSHA Instruction CPL 2.25**

**January 31, 1995**

**SUBJECT:** Scheduling System for Programmed Inspections

**TO:** TOSHA Personnel  
Affected Employers

**FROM:** Chief, Standards & Procedures *RBC*

**THRU:** Director *EW*

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A. **PURPOSE:** This instruction sets forth and implements the revised scheduling system for programmed inspection.

B. **DOCUMENTS AFFECTED:**

- 1 This instruction cancels and supersedes the provisions of the TOSHA Field Operations Manual (FOM), Chapter II - Compliance Programming, Paragraph E - Inspection Scheduling, subparagraph 2. - Programmed Inspections FOM pages II-6.2 through II-25) and all Appendices to Chapter II.

**NOTE:** ONLY the provisions of Chapter II, subparagraph E.2. and the appendices to Chapter II are canceled and superseded. The revision of the FOM which will be published on or about July 1, 1995 will not contain the information and guidance currently set forth in subparagraph E.2. and it will be contained only in this instruction.

2. This instruction adopts the provisions of OSHA Instruction CPL 2.25I; January 4, 1995; Subject: Scheduling System for Programmed Inspections.

C. **SIGNIFICANT CHANGES:**

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- C.
- 1 For safety, national BLS Lost Workday Injury and Illness data are used to rank industries at the 4 digit SIC Level. The data are for Calendar Year 1992, the most recent that BLS has published. National data are used because BLS no longer supplies OSHA or TOSHA with state data. (See D.2.a.(1)(a) and D.2.b.(1)(a)(i).)
  - 2 For safety and health, deletion criteria is extended to 5 years for a complete inspection. Previous deletion criteria was 2 years for safety and 3 years for health. (See D.2.b.(1)(b)(vi)(B).)
  - 3 For both safety and health, establishment lists are in random order and contain all the establishments in the top 200 industries. The establishments in the top 100 industries are given two chances to rank high on the list. That is, for safety all the establishments within the 200 industries with the highest lost workday injury and illness rates are placed in random order with the top 100 industries twice as likely to rank high. For health all establishments within the 200 industries ranked by serious health violations per inspection are placed in random order with the top 100 industries twice as likely to rank high. The establishments are selected for inspection in this random order. (See D.2.a.(2)(b) and D.2.b.(1)(b)(iv).)
  4. Small employers that are part of another employer are included on the lists. Some employers with sizable employment appear on the Dun and Bradstreet (D&B) list as having no employment. This is because some corporations report corporation employment to Dun and Bradstreet and do not separate the employment by worksite. The small employers still have a small employer deletion code of 'TO' which needs to be removed if the employer is to be inspected. (See D.2.b.(1)(b).)
  5. The issuance of this instruction authorized the termination of the use of inspection cycles created using prior planning guides as set forth in the FOM, Chapter II, paragraph E. No scheduled establishments are to be carried over to the FY 1995 cycles except as may have already been inspected.

**D. SCHEDULING SYSTEM:**

Program Planning:

- a. Purpose. The scheduling system for programmed inspections provides general guidelines to Branch Chiefs and Area Supervisors in planning

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- D     1.     a.     compliance operations and related activities and instructions for their implementation.
- b.     Primary Consideration. The primary consideration in conducting compliance operations is the attainment of maximum effective inspection coverage. To achieve this goal, the guidelines in this instruction shall be used for scheduling inspections.
2.     Programmed Inspections. A programmed inspection generally is a comprehensive inspection of the worksite but may be limited as necessary in view of resource availability and other enforcement priorities such as focused inspections. (Low hazard areas, such as office space, may be excluded from inspection without affecting the comprehensiveness of the inspection.)
- a.     General. Certain considerations are fundamental to the implementation of TOSHA's targeting system. The work "host" refers to the computer system used by the OSHA National Office and the word "micro" refers to the computer system used in the TOSHA Central Office and in each Area Office.
- (1)     Policy. It is TOSHA policy that inspections conducted as programmed inspections be primarily in the "high hazard" sectors of employment.
- (a)     In the area of safety, the agency considers a "high hazard" industry to be one within a Standard Industrial Classification (SIC) Code with a National lost workday injury and illness rate among the highest 200 as published for calendar year 1992 by the Bureau of Labor Statistics (BLS) at the 4-digit SIC level. The 1992 data are the most recently published data by BLS.
- (b)     In the area of health, the agency considers a "high hazard" industry to be one with a previous history of serious OSHA and/or TOSHA health citations.
- (c)     For the purpose of scheduling programmed inspections, the construction industry is considered to be in the category of high hazard employment.

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- D. 2. a. (1) (d) Other specific industries, such as logging, and oil and gas extraction, are also high hazard industries and are frequently scheduled for inspection as special emphasis programs.
- (2) Description. Both programmed safety inspections and programmed health inspections are scheduled using a multiple-step process.
- (a) The initial selection of a particular category of employment (e.g., high rate general industry, construction, or high hazard health) is made within current agency policy and with actual numbers of planned inspections taken from the annual Field Operations Program Plan projections made at the Area Office level, reviewed by Branch Chiefs, and approved by the Director.
- (b) Within a category, establishments are grouped by some criteria such as industry, and priority is established by grouping. Within grouping establishments are selected for inspection and placed in an inspection cycle.
- (i) For State Agencies and Local Governments, the priority is established by TDOL Rule 0800-1-5-.08(3)(a) which states in part, "Monitoring inspections of each Public Sector employer will be conducted at least biennially and shall cover, as a minimum, inspection of at least one (1) worksite in at least two (2) departments or establishments."
- (ii) For General Industry safety, the priority is based on the Lost Workday Injury and Illness Rate by industry and the list of establishments within these industries will be provided by the OSHA National Office. Establishments on the list are those within the top 200 industries and are placed in random order with weighing factor applied so that establishments in the top 100 are twice as likely to place high on the random ordered list. The list is provided by OSHA in four sublists.

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- D.     2.     a.     (2)     (b)     (iii)     For General Industry health, the priority is based on the number of serious health violations per health inspection by industry and the list of establishments within these industries will be provided by the OSHA National Office. Establishments on the list are those within the top 200 industries and are placed in random order with weighing factor applied so that establishments in the top 100 are twice as likely to place high on the random ordered list. The list is provided in four sublists.

For Construction, the universe of active construction sites is maintained by the Construction Resource Analysis (CRA) group at the University of Tennessee. Each month CRA randomly selects active worksites for inspection. Each Area Office receives the list from CRA and the OSHA Construction Inspection Reports for each site from F. W. Dodge through the TOSHA Central Office. In addition, each Area Office maintains an active construction worksite list based upon personal observation by compliance officers, newspaper reports of construction activity, and other sources. The two lists shall be combined for scheduling.

For Low Rate Manufacturing and Nonmanufacturing safety, the OSHA National Office supplies a list of establishments selected from those available in each category and the Planning Guide software randomly selects the number needed from this list based on a 90/5/5 split among high rate manufacturing/low rate manufacturing/non-manufacturing.

- (c)     Where no establishment list is provided by the OSHA National Office (e.g., logging category), the Area Supervisor shall compile a complete list of active establishments (worksites) considering all establishments (worksites) within the coverage of the office and using the best available information (commerce directories, commercial

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D. 2. a. (2) (c) telephone listings, local permits, local knowledge, etc.)

- b. Guidelines and Procedures. Programmed inspections shall be conducted jointly by both safety and health personnel whenever resources are available and it is likely, based on experience in inspecting similar workplaces, that both safety hazards and health hazards exist to a significant degree. If an inspection is begun as safety only or as health only, but the Compliance Officer (CO) determines during the course of the inspection that it should be expanded, the CO shall make a referral as appropriate.

**NOTE:** Establishments which appear on both the safety and health registers should be scheduled for a joint safety/health inspection whenever practicable. (See D.2.b.(1)(c)(i)(G).)

- (1) Inspection Scheduling for General Industry (Safety & Health). The following procedures are to be adhered to in programming General Industry safety and health inspections.

(a) Industry Rank Report. The OSHA National Office, through the TOSHA Central Office, shall provide each Area Office with an Industry Rank Report (SIC List), listing industries by their 4-digit Standard Industrial Classification (SIC) Codes where available. These lists are sent electronically to the Central Office at the beginning of each fiscal year. Ranks are assigned based on the priority criteria described above. (See Appendices A and B to this instruction.)

- (i) The Safety SIC List is a statewide listing of industries with the highest Lost Workday Injury and Illness Rates. A list is provided with the top 200 safety industries ranked by the industry's National Lost Workday Injury and Illness Rate. The national Lost Workday Injury and Illness Rates are estimated from the Bureau of Labor Statistics (BLS) annual survey at the 4-digit SIC level industry. The 1992 data are the most recently published data by BLS. Two lists are provided, one in SIC order and the

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- D.     2.     b.     (1)     (a)     (i)     other in Lost Workday Injury and Illness rate order from highest to lowest.
- (ii)   The Health SIC List is a statewide listing of industries with high average numbers of serious (including willful and repeat) health violations per inspection. A list is provided with the top 200 health industries ranked by the industry's average number of serious health violations per inspection. The average number of serious health violations per inspection is calculated by dividing the number of serious health violations for the previous five calendar years in the industry by the number of health inspections conducted in the industry. Two lists are provided, one in SIC order and the other in serious health violations per inspection order from highest to lowest.
- (b)   Establishment Lists. The OSHA National Office will also provide a series of establishment lists (in random order) from the host for use by the state in programming inspections. These lists are provided electronically when needed.
- (i)   Data Processing Issues - Random Order. The establishments are placed in random order at the host using the following procedure. Each establishment in the top 200 industries is assigned a random decimal number between 0 and 1. Establishments in industries ranked 1 to 100 are given two random numbers with the larger number selected and assigned to the establishment. The list is scored from largest to smallest random number. The resulting establishment list is in random order with the establishments in industries in the top 100 given two chances to place high on the list.
- (A)   For the purpose of downloading the appropriate number of establishments for each office (state), the list for each office is

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- D. 2. b. (1) (b) (i) (A) divided into four sublists each containing about one quarter of the firms on the list.
- (B) No additions should be made to the establishment lists because the lists are a random order listing of all the establishments in the top 200 safety industries and the top 200 health industries. All the firms within an industry may not be in the sublist of establishments downloaded to the micro computer. Only after all four sublists are downloaded are all the establishments for all industries present on the micro computer.
- (C) Establishments with 10 or fewer employees and that are not part of a larger employer will be deleted from establishment lists provided by the OSHA National Office. Establishments with 10 or fewer employees and that are a part of a larger employer will have a deletion code of 'TO'. Some establishments showing no employment of the employer file are locations of larger corporations that do not report their employment to Dun & Bradstreet for each location.

Because the existing software on the micro is limited to three-digit rank values, any establishment list with more than 999 establishments is renumbered, with the result that more than one establishment may share the same rank number. For example, on an establishment list of 2400 establishments, the first three establishments will be given rank value "1", the second three establishments given rank value "2", and so on. The rank value on the micro will be used for the random ordering of the establishment list. In the past the rank value had been



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- D. 2. b. (1) (b) (i) (D) used to provide a reference to the Industry rank report. The planning guide software will randomly select when there are firms of the same rank and not all are selected.

High Rate Establishment List for Safety. A list of establishments located within the State jurisdiction for each SIC code on the High Rate SIC List (the top 200 safety industries) will be provided by the OSHA National Office as available to all the Area/District Offices and States. This list will be in random order. The list is divided into four sublists and made available electronically. (See Appendix B and Chapter X of OSHA Instruction ADM 1-1.30.)

- (iii) Low Rate Establishment List for Safety. A list of randomly selected establishments in industries not included in the top 200 safety industries located within the state's jurisdiction will be provided by the OSHA National Office. A randomly selected pool of these establishments is included in each sublist of establishments made available electronically to the state.

Nonmanufacturing Establishment List for Safety. A list of establishments randomly selected from industries with SIC codes in the range 4000 through 8999 and located within the state's jurisdiction will be provided by the OSHA National Office. A randomly selected pool of these establishments is included in each sublist of establishments made available electronically.

- (v) Health Establishment List. A list of establishments located within the state's jurisdiction for each SIC code on the Health SIC List will be provided by the OSHA National Office. This list will be in random order. The list is divided into four sublists and

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D. 2. b. (1) (b) (v) made available electronically.

(vi) Adjustments. Prior to use of establishment lists provided by the OSHA National Office for scheduling purposes, Area Supervisors shall make appropriate deletions as follows:

(A) IMIS Codes for deletions are also found in Chapter X, Table I, Update Codes of OSHA Instruction ADM 1-1.30. Deletions may be applied to the inspection register (as defined in D.2.b.(1)(c)). The planning guide software selects the appropriate number of establishments for low rate manufacturing and nonmanufacturing for each safety cycle.

(B) Only establishments with an out of business deletion code will be deleted by the OSHA National Office. All establishments with valid deletion codes will be downloaded with their deletion codes.

(C) Additions. The lists are in random order. No additions should be made to the lists. When an establishment is identified for addition to the list, it should be sent to the OSHA National Office for inclusion in next year's list. However, State Plan States may make additions and the following updated code is available for adding establishments to the list:

Description

When information received from local sources reliably indicates that an establishment is classified within a SIC code on one of the SIC Lists but does not appear on the corres-

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- D. 2. b. (1) (b) (vi) (C)      sponding establishment list provided. Additions shall be placed on the proper SIC List in accordance with the listing criterion used; e.g., alphabetically, by size, etc.

- (D) Deletions. The following deletion codes shall be used to update establishment lists. Deletions for any other reason shall be requested from the OSHA Regional Administrator and approved by the OSHA Director of Compliance Programs.

EXCEPTION: Approval from the OSHA National Office is not required when the deletion code is used to eliminate duplicate listings or when establishments are not within OHSA's jurisdiction.

(# = last digit of the fiscal year)

<u>Activity Code</u>	<u>Description</u>
A#	Activity ceased or process not active.
	Business Closed - Establishment is no longer in business.
	Consultation - Establishment has been approved for exemption from inspection through consultation. <b>NOT APPLICABLE IN TENNESSEE AT THIS TIME.</b>
	Health inspection - A substantially complete or focused

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D. 2. b (1) (b) (vi) (D) H# (Cont'd) health inspection was conducted within the current or previous five (5) fiscal years with no serious violations cited; or, where serious violations were cited, an acceptable abatement letter or a followup inspection has documented "good faith" efforts to abate all serious hazards.

I# Incorrect SIC code - The correct SIC code for the establishment is not on the current Safety High Rate SIC List of the current Health SIC Lists. This deletion also applies when the correct establishment SIC code is not on the Low Hazard SIC List when used for scheduling according to D.1.b.(1)(e)(iv)-(A) (i.e., when the correct SIC code is a nonmanufacturing code).

EXAMPLES: Establishment is listed under an incorrect SIC code which is on the High Rate SIC List but the correct SIC code for the establishment is not on the High Rate SIC List.

Establishment is listed in a SIC code which was on the High Rate SIC List for the fiscal year in which the In-

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D.     2.     b.     (1)     (b)     (vi)     (D)     I#

spection Register was made up initially, but is no longer on the High Rate SIC List at the time the inspection is scheduled.

**NOTE:**     If an establishment is selected on the Low Hazard of the Non-manufacturing Establishment List for Safety under an incorrect SIC code, the establishment shall not be deleted from those lists. Its selection is random and will fit in wherever its real SIC code places it.

**J#**     Jurisdictional error - not within Area Office or State geographic area or jurisdiction.

**L#**     Location of establishment  
 Could not be found.

**O#**     Other reasons for deletion not listed.

**P#**     Plant office or headquarters -  
 Nonplant facility.

**S#**     Safety inspection - Any comprehensive programmed or focused safety inspection or a substantially complete unpro

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D.	2	b.	(1)	(b)	(vi)	(D)	S#	grammed safety inspection conducted within the current or previous five (5) fiscal years.
							T#	Ten or fewer employees - Establishments with no more than 10 employees at any time during the previous 12 months. Establishments with 10 or fewer employees and are part of larger employers will be included in the employer lists supplied by the OSHA National Office. These employers will be coded 'T0' by the OSHA National Office.
							V#	Voluntary protection program participation approved. Establishment had been approved to participate in the voluntary protection program. <b>NOT APPLICABLE IN TENNESSEE AT THIS TIME.</b>
							W#	Reserved.
							Y#	Carryover.

- (c) Inspection Register. After all the appropriate changes are made, the Central and/or Area Office inspection registers shall be made up by determining which establishments are to be scheduled for inspection during the current fiscal year. The number of projected programmed inspections is taken from the revised OSHA-146 Form (OSHA-146 EZ). This number shall be adjusted to reflect the number of

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- D. 2. b. (1) (c) planned inspections in each category that are expected to be done in the next year. The number of carryover establishments shall be subtracted to determine the number of establishments required to meet the projected number.
- (i) The General Industry Safety Inspection Register shall consist of the following elements:
- Up to five percent of the total number of projected programmed high hazard safety inspections to be conducted, but not exceeding five percent, shall be scheduled from the Low Hazard Establishment List.
- (B) Up to five percent of the total number of projected programmed high hazard safety inspections to be conducted, but not exceeding percent, shall be scheduled from the Nonmanufacturing Establishment List;
- Ninety percent, or more, of the total number of projected programmed high hazard safety inspections shall be selected in random order from the High Hazard Establishment List, for the purpose of inspection scheduling.
- (ii) The Health Inspection Register shall consist of the total number of projected programmed health inspections selected in random order from the health Establishment List.
- (iii) The inspection registers, together with adequate documentation on all additions, deletions, or other modifications, shall be maintained in the Area Office for three years following their completion.
- (d) Inspection Cycle. An inspection cycle is a group of establishments which have been scheduled for inspection. The cycle has two characteristics: 1] once started all

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- D. 2. b. (1) (d) establishments within the cycle must be inspected, and 2] the establishments within the cycle may be inspected in any order. Ideally, the size of the cycle should be such that all establishments will be inspected during the course of the fiscal year and there would be no carry over. It is best to estimate a cycle size of a sufficient number of establishments to last ten to twelve months. if the cycle is not large enough to cover the entire fiscal year, when it is about to be finished another cycle can be chosen that is of a size to cover the balance of the fiscal year. The next year's cycle will be selected from next year's register which will have refreshed data.
- (e) Inspection Scheduling. Within a cycle, establishments may be scheduled and inspected in any order that makes efficient use of available resources.
- (i) Each inspection cycle shall be completed before another cycle is begun. The only exceptions are as follows:
- (A) An establishment may be carried over to another cycle if the establishment is not operating normally because of strikes, seasonal fluctuations, or other factors.
  - (B) An establishment may be carried over to another cycle if necessary equipment or personnel with necessary experience and qualifications to perform the inspection are not presently available.
  - (C) An establishment may be carried over to another cycle if it is the last remaining establishment in a cycle, its inspection would require travel in excess of 50 miles, and it cannot be combined with other inspection activity.



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- D. 2. b. (1) (e) (i) (D) An establishment may be carried over to another cycle if the employer has not yet completed abatement action required as a result of a previous comprehensive TOSHA inspection of the same inspection type (safety or health) because the final abatement date has not yet come.
- (E) An establishment may be carried over to another cycle if the employer has contested a citation item issued as a result of a previous TOSHA inspection and the case is still pending before the Tennessee Occupational Safety and Health Review Commission.
- (F) An establishment may be carried over to another cycle if the inspection cannot be completed due to the employer's refusal to allow entry.

An establishment may be carried over to another cycle if the inspection must be deferred because of the presence of a TOSHA consultant at the worksite.

Approval for carrying over an establishment for reasons not listed above must be requested, in writing, from the Branch Chief and must be approved by the Director.

NOTE: Although the Area Supervisor is authorized to carry over inspections to another cycle for the reasons given in this subparagraph, in most cases there should be no requirement to do so.

There may be good reasons for not

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D. 2. b. (1) (e) (i) (H) carrying an establishment over to another cycle; in that case the Area Supervisor is free to schedule the inspection.

If an inspection is conducted rather than carried over and if there are items under contest or with an abatement date that is still open, those items shall be excluded from the scope of the inspection unless monitoring of abatement is required; e.g., pursuant to a settlement agreement.

(ii) As previously described, the inspection cycle is established with the number of inspections projected at the beginning of the fiscal year. The number of inspections actually performed, however, will depend on factors such as staffing, unprogrammed inspection activity, and special programs. If all establishments in the inspection cycle are inspected before the end of the fiscal year, another cycle shall be prepared by extending the inspection register. The number of establishments on this inspection cycle will be equal to the estimate of the number of inspections that the Area Office projects it can conduct prior to the end of the fiscal year. The planning guide software will give the 90/5/5 split for high hazard, low hazard, and non-manufacturing as each cycle is generated.

If all establishments in the current cycle are inspected before the end of the fiscal year, another cycle shall be prepared by extending the inspection register to the next group of consecutively numbered establishments on the high hazard list and randomly generated low hazard and non-manufacturing establish.

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D. 2 b. (1) (e) (ii) (B) The number of establishments on the extended inspection register will be equal to an estimate of the number of inspections that the Area Office projects it can conduct prior to the end of the fiscal year.

(iii) Any cycle begun but not yet completed at the end of the fiscal year shall be completed, subject to the exceptions set forth in D.2.b.(1)(e)(i), before beginning the new fiscal year inspection cycle. The number of inspections yet to be completed shall be taken into account in setting the new fiscal year inspection cycle.

In the event that inspections have been conducted in all eligible establishments on the Establishment Lists received from the OSHA National Office before completing the planned number of inspections, the Area Supervisor shall:

(A) For safety, request from the OSHA National Office through the Regional Administrator, TOSHA Director, TOSHA Assistant Director, and Chief of Safety Enforcement, additional establishments from the Low Hazard Establishment List, selected in rank order, making appropriate adjustments according to D.1.b.(1)(b)(v).

(B) For health, request from the OSHA National Office through the Regional Administrator, TOSHA Director, TOSHA Assistant Director, and Chief of Health Enforcement, a list of additional establishments within the next group of targeted health SIC codes.

(f) Deletions. Once the inspection cycle itself begins, the following policy shall guide deletions:

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- D. 2. b. (1) (f) (i) An establishment shall be deleted from an inspection cycle whenever one of the criteria for deletion becomes applicable. For example, an establishment may be out of business or inactive.
- (ii) Where it is learned only after the compliance officer has arrived at the establishment that one of the criteria for deletion applies, the inspection shall not be conducted (or continued if already begun). Citations for the completed portion of the inspection shall still be issued, unless the establishment has fewer than eleven (11) employees and the SIC code is exempted. (See TOSHA Instruction CPL 2.1C, Appendix A, for the most current version.
- (iii) If the compliance officer learns after the arrival that the establishment has been classified in the wrong SIC code, but the correct SIC is on the safety or the health SIC list, the compliance officer shall conduct the inspection at that time. Otherwise, the inspection shall be deferred.
- (2) Inspection Scheduling for Construction. Due to the mobility of the construction industry, the transitory nature of construction worksites, and the fact that construction worksites frequently involve more than one construction employer, inspections shall be scheduled from a list of construction worksites rather than construction employers. The OSHA National Office will provide the State with a randomly selected list of construction projects from all covered active projects. The list should contain the projected number of sites each Area Office plans on inspecting in the next month.
- (a) Inspection List. OSHA has contracted with F. W. Dodge and the Construction Resources Analysis (CRA) group of the University of Tennessee. Each month F. W. Dodge will provide to CRA information on construction projects which are expected to start in the next 60 days. CRA adds to the Dodge data a time period when each project is active

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- D. 2. b. (2) (a) and maintains a file containing all active construction projects. From active construction projects, CRA will generate monthly a randomly selected construction inspection list based upon:
- (i) Counties located within Area Office boundaries,
  - (ii) Estimated number of worksites to be inspected during the monthly scheduling period (to be determined by the Area Supervisor),
- (b) OSHA Construction Inspection Reports. CRA will order appropriate OSHA Construction Inspection Reports, corresponding to the sites on the randomly selected list for each Area Office.
- (c) Limitation on Frequency of Selection. Normally, no site shall be selected for inspection more frequently than once per calendar quarter. Therefore, CRA will remove from its master files any project selected for an inspection for a period of four months and reenter it in the fifth month if it is still active. Thus, if a list is not used, CRA should be notified so those sites will be returned to available status. Refer to paragraph D.2.(2)(d)(iv) for return procedures.
- (d) Scheduling Cycle. The scheduling period (cycle) for construction inspections shall be one calendar month. Each month, each Area Office will receive its programmed construction inspection list from CRA. Within the following ten (10) days it will receive the OSHA Construction Inspection Reports corresponding to the sites on the inspection list. This list will be dated the following month. It can be used when received and should be completed by the end of the month it is dated. The use of the current list is important because conditions change rapidly and the lists become outdated. The best planning strategy is to receive from CRA the required number of sites for the month to ensure that the most current list is always being used.

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- D. 2 b. (2) (d) (i) All sites on the inspection list shall be inspected, and the sites can be scheduled in any order to make efficient use of resources.

Complaints shall be treated in accordance with the TOSHA FOM. All other information indicating the possible need for a construction inspection at a specific worksite shall be treated as a referral, also in accordance with the TOSHA FOM.

- (iii) The Area Office shall make no deletions from the inspection list, except where the Area Supervisor documents that:

- (A) Little or no construction activity at a worksite the list has begun or construction activity has already been substantially completed before an inspection can be made.
- (B) A worksite has become ineligible for any reason; e.g., where a substantially complete inspection of the worksite has been conducted as a result of a complaint investigation.

If a new list is received and it is anticipated that it will not be used because of a large number of sites remaining on the current list, the CRA shall be notified through the Central Office. The Central Office (Enforcement Branch Chief or Assistant Director) shall be notified by FAX or telephone as soon as practicable and will so notify CRA in turn so that the unused sites may be restored to be eligible for possible selection on the next list. The unused list shall be marked as such and retained in the scheduling file. (See D.1.b.(2)(g)(i).)

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D. 2. b. (2) (e) Completion of Inspection List. By the middle of each cycle, the Area Supervisor shall assess progress in inspecting all sites on the list in order to plan resources for the following cycle.

- (i) If it appears that not all sites on the list will have been inspected by the end of the month, the Area supervisor may request a shortened list from CRA for the following month through the Central Office (Enforcement Branch Chief or Assistant Director).

If it appears that all sites on the list will have been inspected by the end of the third week of the month, or if fewer employers are inspected than originally projected, the Area Supervisor may request a supplemental inspection list from CRA through the Central Office (Enforcement Branch Chief or Assistant Director) or may supplement the inspection list from local knowledge of construction activity within the Area Office's jurisdiction.

Consecutive months' lists may be combined and used concurrently. However, all sites from the first month of a combined list shall be inspected before worksites from the second month's list are combined with a third month, except when a site is carried over as described at D.2.b.(2)(f) below. That is, lists for two consecutive months can be combined to form one combined cycle; but the first month's list must be completed or classified as carryover before the second month's list can be combined with the third month's list and so on.

- (f) Carryovers. Worksites on one inspection list may be carried over to the next cycle only under the following circumstances:

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D. 2. b. (2) (f) (i)

A worksite may be carried over to the next cycle if it is not operating normally at the time of the inspection because of personnel strikes, environmental conditions, or other factors.

A worksite may be carried over to the next cycle if necessary equipment or personnel with experience and qualifications to perform the inspection are not presently available.

A worksite may be carried over to the next cycle in the interest of efficient use of resources. The number of such carryovers may not exceed 25% of the total number of sites on the original cycle. Any worksite carried over in this manner may not be carried over a second time.

A worksite may be carried over to the next cycle if the inspection cannot be completed due to the employer's refusal to allow it.

A worksite may be carried over to the next cycle if conditions (construction activity at the site) have not changed substantially since a prior inspection.

A worksite may be carried over to the next cycle if the inspection must be deferred because of the presence of a consultant at the worksite.

Approval for carrying over a worksite for reasons not listed above must be requested from the Branch Chief and approved by the Assistant Director or Director.

NOTE: Although the Area Supervisor is authorized to carry over inspections to another cycle for the reasons given in this subparagraph, there is no requirement to do so. There may



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D.     2.     b.     (2)     (f)     (vii)   NOTE:     be good reasons for not carrying a worksite over to another cycle; in that case the Area Supervisor is free to schedule the inspection.

(g)     Area Supervisor Administration of Inspection List.   The Area Supervisor shall be responsible for maintaining documentation of the construction inspection list and for ensuring that selection criteria are current and appropriate.

(i)     The monthly construction inspection lists received from CRA and the corresponding OSHA Construction Inspection Reports shall be maintained in the Area Office for a period of three (3) years after completion of the cycle whether they are used or not.

(ii)    If circumstances indicate a need to modify the Area Office's selection criteria on file with CRA, The Area Supervisor shall contact the Branch Chief and Assistant Director. All modifications to the Area Office's selection criteria shall be sent through the OSHA Assistant Regional Administrator for Federal-State Operations and, when approved by the OSHA Regional Administrator, shall be effective for the month following entry into the computer if received by the 23rd of the month.

(h)     Health Construction Inspections.   No separate scheduling method is applied for programmed construction health inspections. Rather, the Area Supervisor shall determine which construction inspections are to be conducted as a joint inspection where serious health hazards are likely to exist at the site. A local emphasis plan may be submitted and approved for scheduling health construction inspections.

(3)     Reserved.

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D. 2. b. (4) Special Emphasis Programs. Special Emphasis Programs provide for programmed inspections of establishments in industries with potentially high injury or illness rates which are not covered by the scheduling systems outlined in preceding subsections of D.2.b. or, if covered, are not addressed to the extent considered adequate under the specific circumstances present. Special emphasis programs may also be used to set up alternative scheduling procedures or other departures from OSHA national or TOSHA statewide procedures. They include both National Emphasis Programs and Local (either statewide or local area) Emphasis Programs.

(a) Description. The description of and the reasons for specific National Emphasis Programs will be set forth in appropriate OSHA and/or TOSHA Instructions or Notices as the occasion arises. Local Emphasis Programs will be described by appropriate TOSHA Instructions or Notices.

(i) The description of the particular Special Emphasis Program shall be identified by one or more of the following:

Specific industry

Trade/craft.

Substance or other hazard.

(D) Type of workplace operation.

(E) Type/kind of equipment.

Other identifying characteristic.

(ii) The reasons for and the scope of a Special Emphasis Program shall be described and may be limited by geographic boundaries, size of worksite, or similar considerations.

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D. 2. b. (4) (a) (iii) National or local pilot programs may also be established under Special Emphasis Programs. Such programs may be conducted for the purpose of assessing the actual extent of suspected or potential hazards, determining the feasibility of new or experimental compliance procedures, or for any other legitimate reason.

(b) Scheduling Inspections. The following guidelines shall apply in scheduling Special Emphasis Program inspections:

(i) Certain Special Emphasis Programs identify the specific worksites and/or industries that will be inspected; therefore, the only action remaining to be taken is the scheduling of the inspections.

Other Special Emphasis Programs identify only the subject matter of the program and contemplate that not all worksites within the program will necessarily be inspected.

(iii) If no special worksites are identified within the program, the Branch Chief or the Area supervisor shall use available information to compile a work-site list.

Where no procedures for selecting worksites for inspection are specified by the OSHA National or Regional Offices, the Branch Chief, or the Area Supervisor, the selection procedures should be random using the method set forth in Appendix C to this instruction. Other selection procedures shall be submitted for approval to the Assistant Director through the Branch Chief.

(c) Program Evaluation. Agency policy currently requires the appropriate Branch Chief to evaluate any special emphasis program approved for inspection within the State. This evaluation shall consist of a report of the program's

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- D. 2. b. (4) (c) successes and difficulties in accomplishing its identified goals. Every program submitted for approval shall contain a program evaluation element.
- (5) Other Special Programs. The Agency may develop programs to cover special categories of inspections which are not covered under the planning guide or under Special Emphasis Programs. Currently migrant farm worker camp inspections have been designated as such a program by OSHA.
- (a) OSHA has agreed to conduct migrant farm worker camp inspections annually, the number to be assigned by the Assistant Secretary in accordance with current program plan procedures. These inspections are distributed among the OSHA Regions in accordance with traditional levels of such activity.
- (b) At the beginning of each season, The Regional Administrators for the Employment Standards Administration (ESA) will provide each OSHA Regional Administrator with a list of migrant farm worker camps which ESA does not intend to inspect.
- (c) In accordance with procedures agreed upon by this agency and the Tennessee Department of Employment Security (TDES) which administers and enforces ESA programs within the State, TDES will conduct most farm labor camp inspections in Tennessee.
- (d) Where TDES has a problem with such inspections or believes that this agency can provide for worker safety and health to a greater extent than can be provided through programs administered by that department, a referral for inspection shall be made to TOSHA. An inspection of the camp shall be scheduled as an unprogrammed referral inspection rather than as a programmed inspection.

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**E. EXEMPTIONS AND LIMITATIONS:**

Congress may place exemptions and limitations on OSHA and TOSHA activities through the annual Appropriations Act. Refer to TOSHA Instruction CPL 2.1C for guidelines on how to apply current exemptions and limitations to compliance programming.

2. The Operational Status Agreement between the Division of Occupational Safety and Health (TOSHA), Tennessee Department of Labor, and the Occupational Safety and Health Administration (OSHA), United States Department of Labor, gives jurisdiction to OSHA for compliance activity at all facilities of the U. S. Department of Defense, U. S. Department of Energy, and Tennessee Valley Authority whether or not the worksite is controlled, owned or operated by an agency of the United States Government or a private employer. Also, all jurisdiction over railroad operations has been given to OSHA pursuant to the decision of the Tennessee Supreme Court in *Southern Railway v. Fowinkle* which held that T.C.A. §50-3-104(4) exempted all activities of railroad employers from coverage under the Tennessee Occupational Safety and Health Act and all jurisdiction over maritime industries has remained with OSHA pursuant to their regulations and T.C.A. §50-3-104(6). Therefore, no compliance activity shall be scheduled for worksites falling exclusively under OSHA jurisdiction.

- F. APPENDICES TO THIS INSTRUCTION:** This instruction contains appendices describing the OSHA reports used for compliance programming as mentioned herein. Appendix C contains sets of random numbers which are to be used as necessary and in accordance with the instructions in that appendix.

**G. ACTION:**

- 1 TOSHA Branch Chiefs and Area supervisors shall ensure that all compliance activities are programmed in accordance with the guidance and direction of this instruction.
2. The provisions of the TOSHA FOM canceled and superseded by this instruction shall be removed and discarded.

- G. EFFECTIVE DATE:** This instruction is effective upon receipt and shall remain in effect until canceled or superseded.